

## REMARKS

Reconsideration is respectfully requested. Claims 1, 2, 4, 9, 10, 12, 15, 17, 26, 27, and 30-38 are pending. Claims 3, 5-8, 11, 13, 14, 16, 18-25, 28, and 29 have been cancelled. Claims 1, 4, 9, and 17 have been amended. New claims 34-38 have been added. No new matter has been added due to the amendments. Amendment to and cancellation of the claims does not affect inventorship.

Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

### Claim Amendments

Claims 4, 12, and 17 have been amended for technical clarity.

### Claim Objections

Claims 4 and 12 stand objected to because of the following informality: the terms for defining the limitation of resolution remains ambiguous. The Examiner has suggested reciting a "higher resolution than 3Å" in order to avoid ambiguity, since those skilled in the art know the stark difference between "high resolution" and "low resolution."

Applicants have amended Claims 4 and 12 to recite "a resolution higher than 3.0 Angstroms". As such, Applicants respectfully request the objection be withdrawn.

### Claim Rejection Under 35 U.S.C. § 112

Claims 1, 2, 4-6, 9, 12-15, 17, and 26-33 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Applicants respectfully traverse.

Claims 5, 6, 13, 14, and 29 have been canceled, rendering the rejections moot.

With regards to claims 1 and 9 (and claims dependent therefrom), the claims have been amended to recite the space group and unit cell dimensions, and as such, Applicants believe the rejections under 112, first paragraph for lacking written description and enablement should be withdrawn.

With regards to claim 17 the application meets the written description requirement because the application is sufficient to show that the inventor possessed the claimed invention. Applicants respectfully direct Examiner's attention to Example 13 of *Synopsis of Application of Written Description Guidelines* ("Guidelines").

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Claim 1 of Example 13 claims "A isolated protein having SEQ ID NO: 3," where the specification has a working example showing the isolated protein was sequenced and determined to consist of SEQ ID NO:3. As stated in the Guidelines:

A search of the prior art indicates that SEQ ID NO: 3 is novel and nonobvious. The claim is directed to a genus of proteins that comprise SEQ ID NO :3. One member of the genus, SEQ ID NO: 3, is described by a complete structure.

The Guidelines go on to conclude:

The claimed subject matter is adequately described. A rejection under the written description requirement should not be entered.

Applicants submit that the instant application is substantial identical to Example 13. As such, instant claim 17 meets the written description requirement, and the rejection on this basis should be withdrawn.


Applicants further submit that the instant application also meets the enablement requirement because, as discussed above, the instant application not only discloses working examples, but also discloses how to make variants. The disclosure, taken in view of the general knowledge, enables a skilled artisan to practice the claimed invention without undue experimentation. As such, the rejection based on lacking of enablement is improper and should be withdrawn.

#### CONCLUSION

Applicants respectfully submit that the claims are now in condition for allowance and early notification to that effect is respectfully requested. If the Examiner feels there are further unresolved issues, the Examiner is respectfully requested to phone the undersigned at (415) 442-1000.

Respectfully submitted,  
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